



June 16, 2005

**CERTIFIED MAIL**

Kyle Watson  
Global Diving and Salvage, Inc.  
3840 West Marginal Way, S.W.  
Seattle, WA 98106

SUBJECT: Vessel Removal Contract No. 05-383

Dear Mr. Watson:

Enclosed is a final copy of Vessel Removal Contract No. 05-383 for your records.

If you should have any questions, feel free to contact me at (360) 825-1631, extension 2020.

Sincerely,

*Melissa Montgomery* (s)

Melissa Montgomery, Land Manager  
Shoreline District Aquatics Region

**REGION COPY**

Enclosure

c: Region File  
Aquatic Resources File

gj/05-383VesselRemovalcontractTransmitFinal



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Melissa Montgomery, Land Manager  
Shoreline District Aquatics Region

**OLYMPIA COPY**

Enclosure

c: Region File  
Aquatic Resources File

gj/05-383VesselRemovalcontractTransmitFinal

CONSTRUCTION  
CONTRACT BOND

Bond 104342530

KNOW ALL BY THESE PRESENTS, That we, GLOBAL DIVING & SALVAGE, INC.

(called Principal), as Principal, and TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA,

a \_\_\_\_\_ corporation of HARTFORD, CONNECICUT (called Surety), as Surety, are held and  
firmly bound unto Washington Dept. of Natural Resources (called Obligee) in the sum of Thirty Thousand Three Hundred  
Eighty Two and 15/100 ----- Dollars (\$ 30,382.15 )  
for the payment whereof Principal and Surety bind themselves, their legal representatives, successors and assigns jointly and severally,  
firmly by these presents.

WHEREAS, Principal has entered into a written Contract dated 6-8-05,

with Obligee for Removal and Disposal of a Derelict Vessel, Solicitation/RFP No. KP05-004

a copy of which Contract is hereto annexed and made a part hereof as fully as if set forth herein:

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That, if Principal shall faithfully perform such Contract and pay all persons who have furnished labor or material for use in or about the improvement and shall indemnify and save harmless Obligee from all costs and damage by reason of Principal's default or failure so to do, then this obligation shall be null and void; otherwise it shall remain in full force and effect. Surety hereby waives notice of any alteration, extension or forbearance as to any of the terms of the Contract other than the terms of payment thereunder, made or extended by Obligee or Principal.

NO RIGHT OF ACTION shall accrue upon or by reason hereof to, or for the use or benefit of, anyone other than the Obligee herein named.

NO SUIT, ACTION OR PROCEEDING by the Obligee to recover on this bond shall be sustained unless the same be commenced within two (2) years following the date on which Principal ceased work on said Contract.

Signed and sealed this 16th day of June, 2005.

GLOBAL DIVING & SALVAGE, INC.

By Tim M. Ben Principal  
PRES.

TRAVELERS CASUALTY AND SURETY  
COMPANY OF AMERICA

By Linda Pawlak  
Linda Pawlak, Attorney-in-Fact

**TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
TRAVELERS CASUALTY AND SURETY COMPANY  
FARMINGTON CASUALTY COMPANY  
Hartford, Connecticut 06183-9062**

**POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT**

**KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY,** corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") **hath made, constituted and appointed, and do by these presents make, constitute and appoint: Linda Pawlak, Robert J. Weller, David J. Buelow, of Seattle, Washington, their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.**

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary, or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority.

**This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:**

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.





## **IMPORTANT DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE**

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (the "Act"). The Act establishes a short-term program under which the Federal Government will share in the payment of covered losses caused by certain acts of international terrorism. We are providing you with this notice to inform you of the key features of the Act, and to let you know what effect, if any, the Act will have on your premium.

Under the Act, insurers are required to provide coverage for certain losses caused by international acts of terrorism as defined in the Act. The Act further provides that the Federal Government will pay a share of such losses. Specifically, the Federal Government will pay 90% of the amount of covered losses caused by certain acts of terrorism which is in excess of an insurer's statutorily established deductible for that year. The Act also caps the amount of terrorism-related losses for which the Federal Government or an insurer can be responsible at \$100,000,000,000.00, provided that the insurer has met its deductible.

Please note that passage of the Act does not result in any change in coverage under the attached policy or bond (or the policy or bond being quoted). Please also note that no separate additional premium charge has been made for the terrorism coverage required by the Act. The premium charge that is allocable to such coverage is inseparable from and imbedded in your overall premium, and is no more than one percent of your premium.

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
DOUG SUTHERLAND, Commissioner of Public Lands**

**CONTRACT FOR VESSEL REMOVAL DISPOSAL  
Port Washington Narrows Vessels**

**Vessel Removal Contract No. 05-383**

This Contract is between the State of Washington Department of Natural Resources, referred to as the DNR or State, and Global Diving & Salvage, Inc, referred to as the Contractor, for the express purposes described in the following provisions.

The overall purpose of this Contract is to:

Remove and dispose of three vessels (DVRP ID # KP05-004) located on the Port Washington Narrows tidelands between the Thompson Dr. and Pennsylvania Ave. street ends. The project will be conducted in accordance with Revised Code of Washington (RCW) 79.100.

The parties mutually agree to the terms, conditions and covenants described below, attached, or incorporated by reference as follows:

**1.01 Rights and Obligations.** *Attachment A* contains the General Terms and Conditions governing work to be performed under this Contract, the nature of the working relationship between the DNR and the Contractor, and obligations of both parties. All rights and specific obligations of the parties to this Contract shall be subject to and governed by Attachment A and other attachments each incorporated by reference, and by the Special Terms and Conditions.

**SPECIAL TERMS AND CONDITIONS**

**2.01 Scope of Work.** The detailed Scope of Work is described in the following:

*Attachment B* contains the detailed description of the work.

*Attachment C* contains the Hydraulic Project Approval (HPA).

**3.01 Conduct of Work.** The Contractor shall furnish all necessary qualified personnel, material, and equipment, and manage and direct the same to timely complete the work described in this Contract. Contractor shall pay Prevailing Wages in accordance with RCW 39.12.040.

**4.01 Period of Performance.**

(1) **Effective Date:** The period of performance shall begin on June 2, 2005.

(2) **Completion Date:** This Contract shall terminate no later than June 30, 2005.

**5.01. Prevailing Wages.** Contractor shall pay the applicable prevailing rate of wages to workers, laborers, or mechanics employed in the performance of the work in accordance with RCW 39.12. Contractor shall file a Statement of Intent to Pay Prevailing Wages with the DNR. Copies of the Statement shall be posted in the job site.

**6.01 OSHA and WISHA Requirements.** Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and the Washington Industrial Safety and Health Act of 1973 (WISHA). The Contractor shall comply with the standards and regulations issued under such Acts and certify that all items furnished and purchased under this Contract shall conform to them.

**7.01 Performance Security.** Contractor shall provide a performance security in an amount equal to Thirty Thousand Four Hundred Dollars (\$30,400.00), within ten (10) business days after successful bid. The bond must guarantee the Contractor's performance of all provisions in this Contract, with the exception of the obligations under Hazardous Waste Indemnification subsection. The bond must name State as the obligee.

A Letter of Credit may substitute for a performance bond unless prohibited by statute. If it is irrevocable, it allows the State to draw funds at will, and names State as beneficiary. A Letter of Credit must comply with Title 62A RCW, Article 5. A savings account assignment may substitute for a performance bond. Contractor shall not operate unless a performance security has been accepted by the State. If at any time the State decides that this security has become unsatisfactory, Contractor agrees to suspend operations and, within 24 hours of notification, to either replace the security with one acceptable to the State, or to supplement the amount of the existing security. The performance security shall remain in force at all times during the term of this Contract and until all payments required under Clause(s) 8.01 are made. Upon any default by Contractor in its obligations under this agreement, State may collect on the performance security to offset the liability of Purchaser to State. Collection on the performance security shall not relieve Contractor of liability, shall not limit any of State's other remedies, and shall not reinstate or cure the default or prevent termination of the agreement because of the default.

**8.01 Compensation and Payment.**

- (1) Amount of Compensation: Contractor's compensation for services rendered shall be based on the bid submitted on May 20, 2005 as accepted by DNR. Compensation including expenses payable to Contractor for satisfactory performance of the work under this Contract is Thirty Thousand Three Hundred Eighty Two Dollars and Fifteen Cents, (\$30,382.15).
- (2) Time of Payment: Payment for work performed shall be made upon full completion of the work.

Payment is timely if DNR pays within 30 days after receiving properly completed invoice vouchers. Payments shall be sent to the address designated by the Contractor. The DNR may terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

- (3) Invoices: Payment for services rendered shall be payable when the Contractor submits properly completed invoice vouchers. The Contractor should submit invoices as soon as possible after work is completed, preferably before June 30, 2005. Invoice vouchers shall include information necessary for the DNR to determine the exact nature of all expenditures and shall not exceed the amount agreed to. Each voucher will clearly indicate that it is for the services rendered in performance under this Contract. Requests for payment shall be submitted to the DNR Project Manager.
- (4) Biennial Closures: Under biennial closing procedures, the Contractor **must submit all invoices and/or billings** for services or material supplied under this Contract through June 30, 2005, to DNR **no later than July 10, 2005**. If DNR does not receive invoices and bills by July 10, 2005 a considerable delay in payment may result.

**9.01 Liquidated Damage.** Liquidated damage is set at Five Hundred Dollars (\$500.00) per day beyond the completion date specified in 4.01. The liquidated damage is not a penalty but rather shall be construed as damage sustained by DNR if work is not timely achieved.

**10.01 General Insurance and Bond Requirements.** Contractor shall, at all times during the term of this Contract at its cost and expense, buy and maintain insurance of the types and amounts listed below. If Contractor fails to procure and maintain the insurance described below, Contractor shall be in material breach of this Contract. In case of breach, DNR, at its election, shall have the right to terminate the contract or to procure and maintain, at Contractor's expense, substitute insurance with right of offset against any money due Contractor.

All insurance and surety bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by the DNR's Risk Manager before the Contract is accepted. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

State of Washington, Department of Natural Resources shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications:

- a. Insurers subject to Chapter 48.18 RCW (admitted and regulated by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.
- b. Insurers subject to Chapter 48.15 RCW (surplus lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.



Within ten (10) business days of successful bid, Contractor shall furnish State of Washington, Department of Natural Resources with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in the agreement and, if requested, copies of policies to State. The certificate of insurance shall reference the State of Washington, Department of Natural Resources, and the derelict vessel removal and demolition agreement number.

Contractor shall include all subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

The State of Washington, Department of Natural Resources, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella, and property insurance policies.

All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by State.

Contractor waives all rights against State for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this agreement.

By requiring insurance herein, State does not represent that coverage and limits will be adequate to protect Contractor, and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to State in this agreement.

The limits of insurance, which may be increased by State of Washington, Department of Natural Resources, as deemed necessary, shall not be less than as follows:

Commercial General Liability (CGL)/Marine General Liability (MGL) Insurance.

Purchaser shall maintain commercial general liability (CGL) insurance or marine general liability (MGL) insurance covering claims for bodily injury, personal injury, or property damage arising on the property and/or out of Contractor's operations and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 per each occurrence. If such CGL or MGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL or MGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract), and contain separation of insured (cross liability) condition. MGL insurance shall have no exclusions for non-owned watercraft.

#### Protection and Indemnity Insurance.

Contractor shall procure and maintain Protection and Indemnity (P and I) insurance, including hull coverage. This insurance will cover all claims with respect to injuries or damages to persons or property, including nets and fishing lines, sustained in, on, or about the property, including while at a marina and in transit, with limits of liability not less than \$1,000,000. If necessary, commercial umbrella insurance covering claims for these risks shall be procured and maintained.

#### Workers' Compensation Coverage.

Contractor shall comply with all State of Washington workers' compensation statutes and regulations. Workers' compensation coverage shall be provided for all employees of Contractor and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which exists out of or in connection with the performance of this agreement. Except as prohibited by law, Contractor waives all rights of subrogation against State for recovery of damages to the extent they are covered by workers' compensation, employer's liability, commercial general liability, or commercial umbrella liability insurance.

If Contractor, subcontractor or sub-subcontractor fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Contractor shall indemnify State. Indemnity shall include all fines, payment of benefits to Contractor or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees.

#### Longshore and Harbor Worker's Insurance

Certain work or services under this agreement may require insurance coverage for longshore and harbor workers other than seaman as provided in the Longshore and Harbor Worker's Compensation Act [33 U.S.C.A. Section 901 et seq.]. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities. Contractor is fully responsible for ascertaining if such insurance is required and shall maintain insurance in compliance with this Act. Contractor is responsible for all civil and criminal liability that may arise from the failure to maintain such coverage.

#### Jones Act

Certain work or services under this agreement may require insurance coverage for seaman injured during employment resulting from negligence of the owner, master or fellow crew members as provided in 46 U.S.C.A. Section 688. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities. Contractor is fully responsible for ascertaining if such insurance is required and shall maintain insurance in compliance with this Act. Contractor is responsible for all civil and criminal liability that may arise from the failure to maintain such coverage.

Marine Vessel Pollution Liability Insurance. Contractor shall obtain for the duration of the agreement marine vessel pollution liability, including investigation and defense costs, for bodily injury and property damage, including loss of use of damaged property or of property that has been physically damaged or destroyed. Failure to buy and maintain the required insurance may result in a breach and/or termination of the contract at State's option. Such coverage must provide coverage for on-site clean-up costs and cover gradual and sudden pollution, and includes in its scope of coverage, natural resource damage claims. The State of Washington, Department of Natural Resources shall be named as additional insured. Coverage shall be maintained in an amount of at least:

1. \$1,000,000 each occurrence for contractor's operations at the site(s) identified above, and
2. If the policy contains a general aggregate limit or policy limit, it shall be at least \$5,000,000.

Such insurance may be provided on an occurrence or claims-made basis. If such coverage is obtained as an endorsement to the CGL and is provided on a claims-made basis, the following additional conditions must be met:

- a. The Insurance Certificate must state that the insurer is covering hazardous substance removal.
- b. The policy must contain no retroactive date, or the retroactive date must precede abatement services.
- c. Coverage must be continuously maintained with the same insurance carrier through the official completion of any work on the agreement Area.
- d. The extended reporting period (tail) must be purchased to cover a minimum of 36 months beyond completion of work.

Environmental Impairment and Contractor's Pollution Liability Insurance. Contractor shall maintain in force for the duration of this contract insurance covering losses caused by pollution conditions that arise from the operations of the contractor described under the scope of services of this agreement. Insurance shall apply to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically injured; cleanup costs, and defense, including cost and expenses incurred in the investigation, defense, or settlement of claims. The insurance policy affording these required coverages shall be written in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$2,000,000 if the contract is for the removal of a single vessel. If the contract is for the removal of multiple vessels, the per loss limits remain unchanged, but an annual aggregate of at least \$5,000,000 is required. The insurance policy shall be endorsed to include as insured the State of Washington, Department of Natural Resources, its officers and employees. An insurer acceptable to the Department shall write the policy of insurance.

If coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this agreement; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 36 months beginning from the time that work

under the contract is completed. If the scope of services as defined in the agreement includes the disposal of any hazardous or non-hazardous materials from the job site, the Contractor must furnish to the DNR evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting waste under this agreement. Coverage certified to the DNR must be maintained in minimum amounts of \$1,000,000 per loss, with an annual aggregate of at least \$5,000,000.

**11.01 Complete Agreement in Writing.** This Contract contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties.

**12.01 Contract Management.** The Project Managers for each of the parties shall be the contact persons for this Contract. All communications and billings will be sent to the Project Manager of DNR. The Project Managers shall ensure supervision and coordination, and shall take corrective action as necessary to meet contractual requirements. The Project Managers shall be available at all times during normal working hours throughout the term of the Contract.

**13.01 Project Managers.**

	Contractor	DNR
Name	Kyle Watson	Melissa Montgomery
Phone	206-623-0621	253-797-5146

IN WITNESS WHEREOF, the parties have executed this Contract.

GLOBAL DIVING AND SALVAGE, INC.

Dated: JUNE 8, 2005

By:   
KYLE WATSON

Title: Project Manager

Address: 3840 West Marginal Way, S.W.  
Seattle WA 98106

Telephone: 206-623-0621

FTIN: 91-1107-754

UBI Number: 600-346-895

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

Dated: 6/13, 2005

By:   
MARK MAUREN

Title: Assistant Region Manager

Address: 950 Farman Ave N.  
Enumclaw, WA 98022

## GENERAL TERMS AND CONDITIONS

**1.01 Identification.** The Contract number must appear on all documents, correspondence, invoices and all other written material submitted or prepared in conjunction with this Contract.

**2.01 Independent Capacity of Contractor.** The Contractor and its employees or agents performing under this Contract are not employees or agents of the DNR. The Contractor will not represent itself nor claim to be an officer or employee of the DNR or of the State of Washington by reason hereof, nor will the Contractor make any claims of right, privilege or benefit which would accrue to an employee under Washington law.

**3.01 Deductions.** The DNR shall make no deductions from the stated amount of compensation for income tax, social security taxes, medical insurance, industrial insurance, license fees or deductions of any other kind. Contractor is responsible for all deductions for which the Contractor may be liable.

**4.01 Retention of Records.** The Contractor shall maintain books, records, documents and other materials which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. These materials shall be available at all reasonable times for inspection, review, or audit by personnel duly authorized by the DNR, and State or federal officials so authorized by law, rule, regulation or contract. The Contractor will retain these materials for six (6) years after settlement or termination.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

**5.01 Right of Inspection.** The Contractor shall provide right of access to its facilities to the DNR, any of its officers, or to any other authorized agent or official of the State of Washington or the federal government at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

**6.01 Close-out.** The Contractor must submit all requests for reimbursement for work performed under this Contract to the DNR so that they are received no later than thirty (30) days following the termination of this Contract. If an earlier date is specified in this Contract, the earlier date shall take precedence.

**7.01 Non-discrimination.** During the performance of this Contract, the Contractor shall comply with all federal and State nondiscrimination laws, regulations and policies. In the event of the Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the DNR.



**8.01 Assignability.** This Contract, and any claim arising under this Contract, is not assignable or delegable by the Contractor either in whole or in part.

**9.01 Subcontracting.** Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the DNR.

**10.01 Changes/Extras.** The DNR may at any time, by written order, make changes within the general scope of this Contract. No payment for changes or extras shall be made unless such changes or extras and the price have been authorized in advance in writing by the DNR Project Manager. No extension of time because of changes or extras will be allowed, unless such extension has been authorized by the DNR Project Manager.

No contract work shall be commenced nor any payment rendered for any work or services to be performed in connection with this Contract until a contract amendment has been signed by both parties.

**11.01 Disputes.** The DNR Project Manager shall decide disputes concerning questions of fact that are not resolved by agreement. The DNR Project Manager shall furnish the Contractor a written, signed copy of the decision. The DNR Project Manager's decision is final unless the Contractor appeals in writing to the DNR Project Manager within 30 days of receiving the latter's decision. The Commissioner of Public Lands or his authorized representative will decide the appeal. The decision will be final.

This dispute resolution process shall precede any action in a judicial or quasi-judicial tribunal. The Contractor does not waive any right to seek review of the DNR's decision. The Contractor may seek review only in the Superior Court of Thurston County. Pending final decision, the Contractor shall proceed diligently to perform according to the Contract and to DNR's decisions.

**12.01 Conflict of Interest.** The DNR may, by written notice to the Contractor, terminate this Contract if it is found that there is a violation of the State Ethics Law, chapter 42.52 RCW or any similar statute involving the Contractor in the procurement of, or performance under, this Contract.

In the event this Contract is terminated as provided above, the DNR shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract. The rights and remedies of the DNR provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

**13.01 Termination for Convenience.** The DNR may terminate this Contract in whole or in part by giving fifteen (15) days' written notice to the Contractor when it is in the best interest of the DNR. If this Contract is so terminated, the DNR shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination.

**14.01 Hold Harmless and Indemnification.** To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless DNR, its officials, agents and employees, from and against all claims arising out of or resulting from the performance of the Contract. "Claim" as used in this Contract means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees. Contractor expressly agrees to indemnify, defend, and hold harmless DNR for any claim arising out of or incident to contractor's or any subcontractor's performance or failure to perform the Contract. Contractor's obligation to indemnify, defend, and hold harmless DNR shall not be eliminated or reduced by any actual or alleged concurrent negligence of DNR or its agents, agencies, employees and officials. Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless DNR and its officials, agents or employees.

**15.01 Licensing, Accreditation and Registration.** The Contractor shall comply with all applicable local, State, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

**16.01 Governing Law.** This Contract shall be governed by the laws of the State of Washington. In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- (1) Applicable federal and State statutes and regulations;
- (2) The Special Terms and Conditions as contained in the main contract instrument;
- (3) The General Terms and Conditions contained in this Attachment A;
- (4) Any Statement of Work attached hereto and incorporated by reference herein; and
- (5) Any other provisions or attachments of the Contract whether incorporated by reference or otherwise.

**17.01 Jurisdiction/Venue.** This Contract shall be construed and interpreted under the laws of the State of Washington and the venue of any action brought under this Contract shall be in the Superior Court for Thurston County. The Contractor, by execution of this Contract, acknowledges the jurisdiction of the courts of the State of Washington in this matter.

**18.01 Waiver.** A failure by the DNR to exercise its rights shall not constitute a waiver of any rights under this Contract unless stated to be such in writing signed by an authorized representative of the DNR and attached to the original Contract.

**19.01 Entire Contract.** This document contains all covenants, stipulations and provisions agreed by both parties. No agent or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement representation, promise or agreement not set forth herein except for extension of the completion date. No changes, amendments or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this Contract.

**20.01 Severability.** If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable

## **DETAILED WORK DESCRIPTION**

### **Brief History**

Starting on or after June 3, 2005, Global Diving & Salvage, Inc ("Contractor" or "Global") will be removing three vessels, names unknown, Washington Registration numbers WN-6992-K and two with unknown registration numbers which are lying on the Port Washington Narrows tidelands between the Thompson Dr. and Pennsylvania Ave. street ends in the City of Bremerton, Kitsap County. The removal will be completed under the authority of RCW 79.100. The removals will include only the three vessels identified in the Request for Proposals KP05-004 and will not include any of the derelict vessels on stilts or higher up on the bank.

### **Work Description**

Starting on or after June 3, 2005 the Contractor will begin mobilizing.

Global will perform a survey of the vessels to establish final inventory of materials, both hazardous and non hazardous, and develop waste streams as well as determine integrity of the hulls.

The next phase will consist of removing two vessels from the beach by floating the vessels at high tide using lift bags. The lift bags will be positioned around each vessel at low tide without the use of divers. The crew will return at high tide and inflate the lift bags. Once the gunwale is above the water, pumps will be used to enhance the buoyancy of the vessel. Once the vessels are stable they will be towed to Lion's Park where they will be removed from the water using Associated Boat Transport. The vessels will be removed at a rate of one vessel per day for a total of two or three days depending on if the option vessel is included. The vessels will be hauled to LRI Landfill in Graham, WA where they will be unloaded and demolished.

As a contingency, if the vessels are unable to be transported by Associated Boat Transport due to the dilapidated condition, the vessels will be yarded into the parking lot for demolition using an excavator. The cost of this contingency is included in Global's bid. Verbal permission to use the park site has been received from Tom Crestman, Maintenance Manager at the City of Bremerton Parks Department (360-473-5309) by both Melissa Montgomery and Kyle Watson. If requested by the City of Bremerton, Global will get written permission from the City of Bremerton Parks Department for use of the site. The park property will be returned to the same or better condition as it was in prior to the start of Global's activities. Interference with normal park activities will be kept as short as is reasonably possible.

The next phase will consist of demolishing the third vessel, which is the vessel with the port hull that has been partially removed. The condition of this vessel is such that floating with lift bags is not an option. Therefore Global will demolish the vessel on site. Global will tow a 40' construction barge to the work site. The barge will be loaded with an empty 30' drop box dumpster. The vessel will be cut into manageable pieces with chainsaws and will be loaded into

the dumpster. The area between the barge and the derelict boat will be boomed so as to contain any floating debris that falls during transfer. All floating debris will be removed prior to removing the boom. The loaded dumpster will be delivered to Seattle where it will be removed from the barge and transferred to the Eastmont Transfer Station for disposal. The worksite will be free from all debris prior to project closure.

All requirements of the amended HPA will be met.

#### **Additional Information**

Global anticipates one day on site to rig vessels with liftbags, two days on site to remove two vessels, and one day to demolish the boat that can't be floated. A high tide is required for floating the vessels, and the tide tables indicate that floating vessels on the evenings during the week of June 20 are the only daylight extreme high tides left in this time period.

Global will have a 21' Boston Whaler on scene during the salvage operation. The boat will be operated by a two person environmental crew, and will be stocked with sorbent materials. Any spills will be responded to immediately. Additionally, Global will have a 20' environmental response trailer with additional oil spill supplies including containment boom, additional sorbents, storage, PPE, and other necessary gear staged at the Lion's Park Boat Launch, located on the opposite side of the narrows from the job site.

Global submitted the following preliminary list of potential hazardous wastes and proposed waste handling procedures, based on their site visit on May 13, 2005.

Potential hazardous waste	Proposed waste handling procedure	Proposed final destination
Lead in paint	Diminimus quantities; will be disposed of as CDL	Eastmont Recycling Center
Diesel Fuel or Gasoline	Fuel found onboard the vessel will be pumped into hazmat barrels before the vessels are transferred to the landfill. Inventory will be kept by sounding each barrel in inches using water and fuel finding paste. Inches of fuel and water will be logged.	Marine Vacuum Service
Batteries	Any batteries found will be transferred into overpacks. A physical count of batteries will be made and logged before sealing the overpacks.	Eastmont Recycling Center

## Completion of the Project

The project will be considered complete when:

1. The vessels have been removed from their current locations and disposed of in accordance with all local, state and federal laws and regulations.
2. The worksite is free from all debris.
3. Any staging areas at the City of Bremerton's Lion Park have been returned to the same or better condition than they were at the start of the project.

## Contact Information

Global Diving& Salvage: Kyle Watson, Project Manager (206) 623-0621 office  
(b) (6) cell  
Jeff Eyler, Env. Supervisor (206) 963-8132

Department of Natural Resources: Melissa Montgomery, Project Manager (253) 797-5146  
Rick Mraz, Derelict Vessel Program (360) 902-1574  
Mark Mauren, Assistant Region Manager (253) 280-3252



## Attachment C

### Hydraulic Project Approval

A hydraulic project approval with Control # 101489-1 was issued on May 13, 2005 by the Washington Department of Fish and Wildlife. An amendment was requested on May 31, 2005. A copy of the original has been attached. The amended HPA will be forwarded to Global upon receipt.



Washington  
Department of  
FISH and  
WILDLIFE

**HYDRAULIC PROJECT APPROVAL**  
RCW 77.55.100 - Appeal pursuant to Chapter 34.05 RCW

Coastal  
48 Devonshire Road  
Montesano, WA 98563  
(360) 249-4628

MAY 10 2005

Issue Date: May 13, 2005  
Expiration Date: August 31, 2005

Control Number: 101489-1  
FPA/Public Notice #:

<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
Washington Department of Natural Resources ATTENTION: Melissa Montgomery 950 Farman Avenue Enumclaw WA, 98022-9282 253-797-5146( ) Fax: 253-926-8956	

Project Name: Remove Derelict Vessels

Project Description: Removal four derelict vessels from the intertidal area.

**PROVISIONS**

1. NOTIFICATION REQUIREMENT: The Area Habitat Biologist (AHB) listed below shall receive written notification (FAX 360.876.1894 or mail) from the person to whom this Hydraulic Project Approval (HPA) is issued (permittee) or the agent/contractor no less than three working days prior to the start of construction activities. The notification shall include the permittee's name, project location, starting date for work, and the control number for this HPA.

2. NOTIFICATION REQUIREMENT: The Enforcement Sergeant listed below shall receive written notification (FAX 360.664.0689 or mail) from the person to whom this Hydraulic Project Approval (HPA) is issued (permittee) or the agent/contractor no less than three working days prior to start of work, and again within seven days of completion of work to arrange for a compliance inspection. The notification shall include the permittee's name, project location, starting date for work or completion date of work, and the control number for this HPA.

3. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled Derelict Vessel Removal JARPA dated May 9, 2005, except as modified by this Hydraulic Project Approval. A copy of these plans shall be available on site during construction.

4. All debris or deleterious material resulting from vessel removal shall be removed from the beach area and bed and prevented from entering waters of the state. A boom or similar device shall be required to contain floatable materials.

5. Vessels shall be disposed of at approved upland disposal site so they will not re-enter state waters.

6. Removal shall be conducted an excavator (clamshell) or boom truck operated landward of the ordinary high water line. Equipment shall be operated to minimize turbidity. Removed material shall not be stockpiled waterward of the ordinary high water line.

7. Upon completion of the vessel removal, the beach shall contain no pits, potholes, or large depressions to avoid stranding of fish.



## HYDRAULIC PROJECT APPROVAL

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8. Vessel removal shall be accomplished in the dry when the tide is low.
9. Removal or destruction of overhanging bankline vegetation shall be limited to that necessary for the construction of the project.
10. Intertidal wetland vascular plants shall not be adversely impacted due to project activities. If such vegetation is adversely impacted, it shall be replaced using proven methodology.
11. All natural habitat features on the beach larger than 12 inches in diameter, including trees, stumps, logs, and large rocks, shall be retained on the beach following the work. These habitat features may be moved during the work if necessary.
12. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediate notification shall be made to the Washington Department of Ecology at 1-800-258-5990, and to the Area Habitat Biologist listed below.
13. No petroleum products or other deleterious materials shall enter surface waters.
14. No burning of materials shall occur below the ordinary high water line.
15. Project activities shall not degrade water quality to the detriment of fish life.

### PROJECT LOCATIONS

Location #1 Port Washington

Work Start:05-16-2005 Work End:08-31-2005

WRIA	WATERBODY		TRIBUTARY TO		COUNTY
15.9100	Wria 15 Marine		Puget Sound		Kitsap
1/4 SEC.	Section	Township:	Range:	Latitude:	Longitude
All	14	24 N	01 E	N 47.578557	W 122.642396
DRIVING DIRECTIONS: Tidelands between Pennsylvania Avenue and Thompson Drive street ends.					

### NOTES

#### APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to the provisions of the Washington State Fisheries and Wildlife Code, specifically RCW 77.55 (formerly RCW 75.20). Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s)



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performing the work.

This Hydraulic Project Approval does not authorize trespass. It is the responsibility of the permit holder to secure any landowner permissions or use authorizations as needed for the project.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued pursuant to RCW 77.55.100 or 77.55.200 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The person(s) to whom this Hydraulic Project Approval is issued has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All Hydraulic Project Approvals issued pursuant to RCW 77.55.110 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the person(s) to whom this Hydraulic Project Approval is issued: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 77.55.170.

#### APPEALS INFORMATION

IF YOU WISH TO APPEAL THE ISSUANCE OR DENIAL OF, OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.

A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100, 77.55.110, 77.55.140, 77.55.190, 77.55.200, and 77.55.290: A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

(A) The denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval; or

(B) An order imposing civil penalties. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30-days of the denial or issuance of a Hydraulic Project Approval or receipt of an order imposing civil penalties. If agreed to by the aggrieved party, and the aggrieved party is the Hydraulic Project Approval applicant, resolution of the concerns will be facilitated through discussions with the Area Habitat Biologist and his/her supervisor. If resolution is not reached, or the aggrieved party is not the Hydraulic Project Approval applicant, the Habitat Environmental Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or his/her designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.



Issue Date: May 13, 2005  
Expiration Date: August 31, 2005

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**B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100 OR 77.55.140:** A person who is aggrieved or adversely affected by the following Department actions may request a formal review of:

(A) The denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval;

(B) An order imposing civil penalties; or

(C) Any other 'agency action' for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife HPA Appeals Coordinator, shall be plainly labeled as 'REQUEST FOR FORMAL APPEAL' and shall be RECEIVED DURING OFFICE HOURS by the Department at 600 Capitol Way North, Olympia, Washington 98501-1091, within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

**C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.110, 77.55.200, 77.55.230, or 77.55.290:** A person who is aggrieved or adversely affected by the denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459-6327.

**D. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO CHAPTER 43.21L RCW:** A person who is aggrieved or adversely affected by the denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval may request a formal appeal. The FORMAL APPEAL shall be in accordance with the provisions of Chapter 43.21L RCW and Chapter 199-08 WAC. The request for FORMAL APPEAL shall be in WRITING to the Environmental and Land Use Hearings Board at Environmental Hearings Office, Environmental and Land Use Hearings Board, 4224 Sixth Avenue SE, Building Two - Rowe Six, P.O. Box 40903, Lacey, Washington 98504; telephone 360/459-6327.

**E. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS RESULTS IN FORFEITURE OF ALL APPEAL RIGHTS. IF THERE IS NO TIMELY REQUEST FOR AN APPEAL, THE DEPARTMENT ACTION SHALL BE FINAL AND UNAPPEALABLE.**

ENFORCEMENT OFFICER: Sergeant Jackson (29) P3

Randi Thurston Habitat Biologist	360-895-6123	<i>Randi L. Thurston</i>	for Director WDFW
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CC: Robert Grumbach, City of Bremerton  
Sandra Lange, DOE  
Allison O'Sullivan, Suquamish Tribe  
Jason Hesseltine